IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.553 OF 2006
IN
WRIT PETITION NO.1762 OF 1999

Bombay Environmental Action Group. ... Petitioner

Vs.

Municipal Corporation of Greater Mumbai & Ors. ... Respondents

And

Bombay Oxygen Corporation Limited. ... Applicant

Mr. Shiraj Rustomji with Ms. Christabel Afonso i/b M/s. Hariani & Co. for the petitioner.

Mr. Uday Bobde with Mr. Rajendra Mishra for the applicant.

Mr. K.R. Belosey, A.G.P. for the State.

CORAM : SMT. RANJANA DESAI &
V.M. KANADE, JJ.

DATED : 29TH NOVEMBER, 2006.

P.C.:-

1. This notice of motion is taken out by the Bombay Oxygen Corporation Corporation Limited. The applicant seeks modification of order dated 17/10/2001 and order dated 17/10/2003 passed by this court in Writ Petition No.1762 of 1999 to the extent the said orders apply to the applicants' trailers, more particularly described in Ex-A to the affidavit in support of notice of

motion. It further seeks direction to the Transport Commissioner and other concerned authority to permit the applicants trailers to ply in the cities of Mumbai, Thane and Navi Mumbai.

2. Our attention is drawn to the order dated 17/10/2001 passed by this court whereby it was directed that all transport vehicles over the age of eight years with the exception of BEST buses shall be phased out, unless converted to run on CNG/LPG with effect from 1/1/2004. We are informed by the learned counsel that by subsequent order, the time was extended by this court.

3. We have heard the learned counsel for the applicant. He contended that all trailers which the applicants ply are less than eight years old. He submitted that the trailers which are towed by tractors are treated as vehicles by the Transport Commissioner and, hence, as per order dated 17/10/2001, they are not allowed to be plied in the city of Mumbai. The learned counsel submitted that the said trailers do not have any engine and, therefore, they are non-polluting. He submitted that since the tractors to which they are attached are less than eight years old, there is no reason why the transport Commissioner should not allow them to ply them in the city of Mumbai. We find substance in this contention. In the circumstances, we pass the following order :

4. The trailers of the applicants are permitted to ply in the city of Mumbai

provided they are attached to the tractors which are less than eight years old and the particulars of which are set out in Ex-A to the affidavit in support of the motion. We clarify, by way of abundant caution, that this permission is granted because these trailers have no engines and, therefore, they are non-polluting vehicles. We also clarify that though the order does not cover Navi Mumbai, we are of the opinion that since to come within the limits of Mumbai, the vehicles have to pass through Navi Mumbai, this clarification would apply to Navi Mumbai also. Notice of motion is disposed of.

5. Certified copy expedited.

[SMT. RANJANA DESAI, J.]

[V.M. KANADE, J.]